

SELECT BOARD MEETING
March 23, 2017 5:30PM

Quorum noted

A. 5:30 PM: Meeting called to order by Chairperson Davis.

B. Roll Call: Ms. Davis, Mr. Fernald, Mr. Murphy, Mr. Pomerleau, and Mr. Hughes.

C. Pledge of Allegiance recited

D. Moment of Silence observed

E. Approval of Minutes of Previous Meeting(s)

5:31 PM Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the workshop minutes of March 2, 2017, as written.

Roll Call Vote:

Mr. Fernald – Yes
Mr. Murphy – Yes
Ms. Davis – Yes
Mr. Pomerleau – Yes
Mr. Hughes - Yes

Unanimous vote to approve motion.

Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the workshop minutes of March 13, 2017, as amended.

Roll Call Vote:

Mr. Fernald – Yes
Mr. Murphy – Yes
Ms. Davis – Yes
Mr. Pomerleau – Yes
Mr. Hughes - Yes

Unanimous vote to approve motion.

F. Public Comment:

There was no public comment.

G. Public Works

5:34 PM 1) Stormwater Project Bids

Mr. Lee said that he knew that Ms. Davis and the Public Works Director discussed some concerns about the bidding, etc.; that tonight he put it back on the agenda because of the discussion at our budget workshop to see if the Board was going to do anything about Phase I for the Stormwater project for Staples Road, Wood Avenue, and Leach Road.

Mr. Pomerleau moved, second by Mr. Murphy, that the Select Board award the Phase I Stormwater bid to Shapleigh Construction, as the low bidder of Phase I (\$148,958), contingent upon voter approval in June.

DISCUSSION

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Ms. Davis said that she wanted to state, here, that we have had a discussion about whether we are mandated to do Phase II, per our bidding document; that we have researched that and discovered we are not necessarily obligated to do that; that we can do Phase I, then update our plan throughout the year, and decide on what the following year will be.

DISCUSSION ENDED

Roll Call Vote:

Mr. Fernald – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

H. Department Head/Committee Reports

There were no reports

I. Administrative Department

5:37 PM 1) Town Manager Report

There were no comments.

5:38 PM a) Financial Report

Mr. Lee said that we have the draft audit in and, based on that, it appears that our Undesignated Fund Balance went up by about \$500,000 this year, which puts us at about 55 to 56 days out of a 60-day goal that we have for sufficient fund balance.

Mr. Murphy asked what value it went up to.

Mr. Lee said that he thinks it went from \$1.9 million to \$2.4 million; that part of that is overlay but, also, money not expended and much higher revenues than projected.

Mr. Murphy asked if it was \$2.5 that we wanted as a base.

Mr. Lee agreed; that we are almost at our 60-day mark and where the auditor would like to see us.

5:39 PM b) Investment Report

Mr. Hughes asked if it was a bank official that was doing the investments.

Mr. Lee said yes; that it is Key Private Bank, which is the investment portion of Key Bank.

Mr. Murphy asked if the names at the bottom were the ones guiding our monies.

Mr. Lee said yes.

5:40 PM Ms. Davis said that there are a couple of funds that are due to roll fairly soon, asking if we are keeping track of that and our expenditures, with regard to liquidity and when we might be needing that.

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Mr. Lee suggested he could put a call in to Mr. Elvidge to talk about the ones that are about to roll. He wanted to mention that, regarding the CDBG Grant that we accepted on behalf of Modernist Pantry, they have now submitted their low/moderate income verification to the State, so we expect that that will be closed out in terms of our participation in it.

5:41 PM 2) Hydrant Rental Overage – Method of Funding

Mr. Lee said that he had an excellent interaction with Mike Rogers (Kittery Water District); that he told Mr. Rogers that we had not appropriated enough money to pay his hydrant bill and we spent more than we had available to us; that, today, he brought back a check for the overage amount and said, “No problems. We’ll see you on July 1 where you make your payment and make it whole, again.” He added that we can get through this year without the overage and, as we talked in the workshop, we added that \$7,022 onto the Public Safety for this coming year to fund both hydrants for the coming year and the \$7,000 due and payable this year; that we should be all set, now, and it will be set back against that line item.

5:43 PM 3) State Donation of Election Equipment

Mr. Lee said that the State of Maine Election Division is donating some election equipment to us and we need the SB to formally, by policy, accept any donations to the Town.

Mr. Pomerleau moved, second by Mr. Fernald, that the Select Board accept the donation from the State of Maine Election Division, with respect to voting equipment, as lined out in their attached memo of the Town Clerk, dated 3/14/2017.

Roll Call Vote:

Mr. Fernald – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

5:46 PM 4) Final Budget Recommendations/Form of Questions/Adoption of Citizen’s option Agenda, April 3 at 7 PM, MMS

Mr. Lee said that he gave the SB draft copies of the Citizen’s Option Meeting Agenda; that beginning in a few minutes, the Budget Committee will be meeting about 4 or 5 remaining issues regarding the Administrative budget:

- ACO (Animal Control Officer) moved to Public Safety from Police
- Public Nurse Stipend changed from \$1,000 to \$1,077 to cover benefits and put under Public Safety.

He said that he didn’t think anything else changed.

The library budget request was clarified as \$155,000, not \$150,000.

The amount budgeted for insurances rounded off enough to cover the Public Nurse cost of \$94.

5:50 PM Mr. Murphy said that the draft Citizen’s Option doesn’t include the former #4 to see if the Town would authorize the Eliot SB to waive tax foreclosure, asking if that was something on which a citizen can’t express an opinion or has he just withdrawn that.

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Mr. Lee clarified that the Citizen's Option Meeting was only for the purposes of monetary articles; that that question will be on the ballot. He added that we need to raise and appropriate county taxes due to cuts coming out of Augusta, so that has also been put on here.

5:52 PM Mr. Pomerleau said that, regarding Question #20, he believed we had taken out the money for the Seacoast Shipyard Association.

The SB agreed.

Mr. Hughes asked, regarding Referendum Question #12, how much we usually allocate/budget in any given year for hazardous waste disposal.

Mr. Lee said in the vicinity of \$9,000 to \$12,000; that it fluctuates, as well, from year-to-year.

5:54 PM Ms. Davis asked if we didn't have time to pull numbers together to see what we have left over this year for Stormwater (#13) so we can reduce this number.

Mr. Lee said that he knew that the Finance Director and Mr. Moulton were talking about projecting what they have through the end of the year; that he thought it might be between \$10,000 and \$15,000 left over this year in Stormwater; that as we look to LD1, where we are over by about \$27,000, if voters choose not to approve anything over LD1, we will know if we have extra money that would otherwise drop through to fund balance that we could carry forward to offset the \$200,000 the next year.

5:55 PM Ms. Davis said that we had considerable savings from last year and this year from negotiating the construction so it seems as though we should have had that amount left over in the budget this year; that that is something we do not have to discuss tonight, but will discuss.

Mr. Moulton concurred with Mr. Lee, saying that he is getting numbers in that will tally up the balance that's owed – outstanding retainage for the Pleasant Street Project and some MS4 stuff that we've done, and have to do.

After further discussion, Mr. Lee and Mr. Moulton will research end-of-year budget totals for more specific numbers.

Ms. Davis asked if we were going to vote on these, in total, or go over them one at a time.

5:58 PM Mr. Lee suggested that we should be waiting for the Budget Committee to complete its work because he would need to adjust for both them and the SB for recommendations.

It was agreed to discuss solar at this time.

Mr. Lee said that, as the solar question is drafted, it is a non-monetary item; that that would be a question for the ballot and not necessarily for the Citizen's Option. He added that we are proposing to ask the citizens about the project and, in the note following that on the ballot, it would indicate there is a recommendation to escrow the savings from the solar until such time that we can buy it out in Year 12 or Year 13; that there is no obligation to buy it out, at all; that if we don't we can sit on that Power Purchase Agreement for all 25 years and still realize some savings, although not as big as if we owned the system.

6:01 PM Mr. Hughes said that he didn't know how we would calculate the amount we save in the course of a year so that we can escrow it.

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Mr. Henningsen said that CMP bills us for the wattage that goes through the meter that goes into the buildings; that there is a separate meter at the solar installation that Barrington Power uses to bill us; that CMP would then give us a one-to-one credit for the amount of energy that goes through the solar meter and it is documented on their invoices; that it is just a clerical function of doing that.

6:03 PM Mr. Lee added that what we would have to do is to still budget electrical like we always have and know that that line is going to come in \$7,000 to \$8,000 under; that that money would then be escrowed into a reserve account each year.

Mr. Henningsen said that, with the timeframe we have involved here, trying to develop this thing down to the last little problem has been difficult; that, right now, what we are trying to do is get to the point where the Town residents will say yes or no; that then we can research and refine these details, and have a little negotiation with CMP, and things like that; but, there is only so far we can go, manually, with running the numbers until we find out if it's worth the effort to do it. He added that there is a way to do it and audit it so that you know that it is there.

6:05 PM Ms. Davis said that she felt she needed another workshop; that she is concerned that we don't have a whole package in front of us; that there is what is called an MOU but there is also a longer contract associated with this, and then there is the presentation that showed us some of the projected numbers; that she needs to see everything in one place; that she is going to be the stickler for the contract language; that she wanted to see exactly what would be involved. She added that the doors aren't closed but, because of the haste of pulling this all together, she doesn't feel that she has a good, comprehensive picture of it; that she would like to before we make that recommendation.

6:06 PM Mr. Henningsen asked what exactly she wanted to see from us.

Ms. Davis said that she wanted to see the contracts (power purchase agreement/MOU).

Mr. Lee said that that has not gone through legal review; that all we have is a marked-up copy of what the Energy Commission thought needed to be adjusted. He reminded the SB that they didn't want to spend money on legal review if the voters were going to shoot it down, so, it's cart before the horse, horse before the cart; that we have a contract that is substantially the way that it will look, going forward, and we can give you, substantially, subject to a final legal confirmation that we don't have some bad language in there, asking if that helped.

6:07 PM Mr. Pomerleau asked, if it came down to the eleventh hour and we wanted to get this on the ballot, why we couldn't add something to it like it would be contingent upon the satisfactory contract approved by legal and approved by the SB.

There was general agreement on Mr. Pomerleau's suggestion.

Mr. Pomerleau said that Mr. Henningsen has done a heck of a job, along with everyone else putting this together; that by his (Mr. Henningsen) own admission, he's not an \$8,000 consultant and he acknowledges there are little bits and pieces of this contract that could be refined. He added that, in looking at Mr. Henningsen's data, the 'do nothing' one doesn't look very wise; that we could do something. He said that, just after reviewing this data, he saw in the Portland paper proposed legislation coming to restore the limits put on by PUC and bring back the State solar credit. He added that he didn't think it was a now-or-never proposition but it's all speculation.

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6:10 PM Mr. Henningsen agreed with Mr. Pomerleau; but, with the flavor coming out of Washington, the federal energy credits may not be around.

Ms. Bennett said that this is kind of a unique position; that 2017 has been called the ‘sweet spot’ for solar; that right now we know what the recommendation is from the PUC, we can run numbers, and we can go back and forth about discounting and present value of cash, etc.; that she doubts that there will be as much clarity in a year, or two, as we have today.

6:11 PM Mr. Lee suggested a follow-up meeting for more clarity with SB members that still feel a bit off on this. He added that he thinks the door is still open but it’s been a year since the SB has seen the PPA or MOU.

There was discussion on how best to get the warrant timely signed for the Town Clerk. It was determined it would need to be signed tonight.

J. Old Business:

6:15 PM 1) Clean Waters Committee By-laws - Revised

Mr. Lee said that this draft has input from the staff and would be the SB’s first reading of this full set of by-laws; that the SB doesn’t need to act on them tonight but suggested they could give input on whether they like the look of it, if there are missing pieces, or things in this document they would like to remove; that they are looking for initial feedback.

Ms. Davis commented that, in the first paragraph, she would suggest changing “an advisory board to the Planning Assistant and Public Works Director” to ‘an advisory board to the Select Board and assisting the Assistant to the Planning Board and Public Works Director’. She also suggested changing, in Article 2: Duties, “A. To identify and advocate for...” to ‘A. To review and advise on...’, and move it lower on the list of duties. She suggested removing “Sewer Committee” from D and, then, you are either going to say Harbor Commission or Harbor Master, or both, depending on whether we go forward with the Commission. Regarding F., she suggested changing “Planning Assistant” to ‘Assistant to the Planning Board’.

There was general agreement in the suggestions.

6:18 PM Mr. Lee suggested that, if any of the SB members have comments, thoughts, language changes, or additions, just keep him in the loop and we will continue to modify it and bring it back in a couple of weeks.

Mr. Pomerleau commented on 4.3 Removal from Office, saying that he didn’t like that in here; that that is standard, blackboard authority in the Charter and kind of negative; that he doesn’t think it needs to be there.

6:19 PM Mr. Murphy said that, with regard to 4.3, that should go in the Ordinance Governing Boards, Commissions, and Committees, which is a general thing that applies to all committees, commissions, and boards. He commented that none of these boards, commissions, or committees exist for themselves but for the Town and to accomplish the Town’s purpose.

K. New Business:

6:21 PM Ms. Davis said that we have a meeting coming up on Monday to review the Harbor Ordinance; that not all members of the Harbor Commission can attend on Monday and they are very desirous of having a joint meeting to discuss the ordinance. She added that she reviewed the calendar, again, and it looks like we could schedule a meeting for April 6th, if it is the SB’s desire to do so.

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After some Board discussion, Ms. Davis said that there are strong feelings within the Harbor Commission and they have a desire to sit down with us and talk about it; that she thought it would be best to address it.

After further discussion, there was general agreement that they would meet with the Harbor Commission on April 6.

6:27 PM Ms. Davis Said that we still have half an hour (for Budget Committee input) and we need an executive session on Personnel right now.

6:28 PM Mr. Fernald moved, second by Mr. Murphy, that the Select Board enter into executive session as allowed by 1 M.R.S.A. §405.A Personnel.

Roll Call Vote:

Mr. Fernald – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

6:57 PM Out of executive session.

7:07 PM Mr. Fernald moved, second by Mr. Pomerleau, that the Select Board enter into executive session as allowed by 1 M.R.S.A. §405.A Personnel.

Roll Call Vote:

Mr. Fernald – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

7:33 PM Out of executive session.

7:40 PM Regarding Referendum #23, Mr. Lee said that one of the things that the Budget Committee asked, and it will be on the wording, here, is that ‘no disbursement of funds shall occur until legal assurance has been obtained that residents of Eliot shall have permanent public access to said land’; that he thought that was something you (SB) had previously agreed upon.

Mr. Pomerleau moved, second by Mr. Fernald, that the Select Board approve Referendum Question #23 to transfer \$40,000 from the Eliot Land Bank for the purposes of protecting 80 acres of Johnson Lane/Shorey Brook, with the provision that it come with a guarantee of public access for its lifetime.

Roll Call Vote:

Mr. Fernald – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

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Unanimous vote to approve motion.

At this time, Mr. Lee went to his office to revise the warrant for signature.

- 7:48 PM** Ms. Davis said that, while waiting for the Town Manager, we do have a meeting on March 30 to finalize ballot items, so, please plan to be here next Thursday.
- 7:50 PM** Mr. Lee returned with the revised warrant; he left to make a couple more changes.
- 7:52 PM** Mr. Tessier asked to discuss something while we are waiting. He said that the Budget Committee, the way the terms are staggered, they are staggered so that three members of the Budget Committee are being replaced one year, three are being replaced one year, and only one in the third year; that the Budget Committee would like to see a more uniformed staggering so it is 3-2-2; that we feel this would be an excellent opportunity to have that happen because, right now, Mr. Hughes' seat is open and it's going to be voted on at the next election. He added that there is only one year remaining on Mr. Hughes' term but, if we had his seat as a full, new three-year term, that would create the staggering we were looking for – 2-2-3; that we have asked that question several times and have not gotten a response but we would like to know if that was something the SB would consider.

Ms. Davis asked, when we finalize the ballot next week, if we would need to do anything special.

Ms. Rawski said that, actually, she would just want the SB's approval to change that staggered position because she technically opened nominations on Monday; that she has announced that but no one has taken out papers, yet, or inquired about any of the Budget Committee positions; so, she feels pretty good about changing that; that she can do a correction to the media and to the web and everywhere she has posted that. She added that she thought this made sense and, so, with the SB's approval, she can change that tomorrow and repost, which would get the Budget Committee back on track.

- 7:55 PM** Mr. Hughes moved, second by Mr. Pomerleau, that the Select Board approve the filling of the unexpired term for three years for the purpose of creating staggered Budget Committee 3-2-2 terms.

Roll Call Vote:

Mr. Fernald – Yes
Mr. Murphy – Yes
Ms. Davis – Yes
Mr. Pomerleau – Yes
Mr. Hughes - Yes

Unanimous vote to approve motion.

- 7:56 PM** Mr. Lee said that the SB had a final copy in front of them, along with the Clerk's Posting of the Notice of Return.

Mr. Fernald moved, second by Mr. Pomerleau, that the Select Board will hold the Citizen's Option meeting and direct the Town Clerk to post the official notice of the meeting tomorrow.

Roll Call Vote:

Mr. Fernald – Yes
Mr. Murphy – Yes
Ms. Davis – Yes

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Mr. Pomerleau – Yes
Mr. Hughes - Yes

Unanimous vote to approve motion.

Mr. Pomerleau moved, second by Mr. Hughes, that the Select Board accept the Citizen's Option Meeting Agenda, as is before the Select Board tonight.

Roll Call Vote:

Mr. Fernald – Yes
Mr. Murphy – Yes
Ms. Davis – Yes
Mr. Pomerleau – Yes
Mr. Hughes - Yes

Unanimous vote to approve motion.

Ms. Davis noted that, on the Citizen's Option Meeting Agenda, it looks like every number between the Budget Committee and the Selectmen matches.

Mr. Tessier said that that means there was a really good exchange of thoughts and ideas.

All agreed.

7:59 PM Mr. Lee said that he wanted to thank the staff, especially a couple of them that worked very closely with him on adjusting these things.

Ms. Davis reminded everyone that we will be discussing the other ballot language next Thursday at 5:30. She added that, if it looks like we have time that evening, it looks like we need to be continuously updated on this TIF thing and pushing that because time is running out, asking Mr. Lee to put that on the agenda, as well.

8:00 PM Ms. Davis said that we had two executive sessions tonight; that we need to know any results from our first executive session on the Meyer's complaint.

Mr. Lee said that the person we had located to be the fact-finder has withdrawn, or cannot complete it, and, so, during executive session there was discussion of who might be a replacement fact-finder and the SB gave him some suggestions of who he should contact to see if we can find a fact-finder for this particular purpose.

8:02 PM Ms. Davis said that the second executive session was on Town Manager reviews; that we got started on that this evening and that that process will go forward as outlined in our calendar; so, nothing coming from that. She asked if there was anything else that anyone needed to bring up this evening.

There was nothing.

L. Selectmen's Report:

There were no Selectmen's reports tonight.

M. Committee Vacancy Report

There was no report.

N. Executive Session

These were done earlier in the meeting.

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O. Adjourn

There was a motion and second to adjourn the meeting at 8:03 PM.

VOTE

5-0

Chair votes in the affirmative

DATE: Approved May 25th, 2017

S: /Mr. John Murphy, Secretary

NOTE: Due to warrant revisions, times (gaps) are different from the normal progression.